Amendments to the Drawings:

The attached sheets of drawings include new drawing sheets including new FIGS. 5-7.

Please add the new drawing sheets to the drawing sheets of record containing FIGS. 1-4.

Attachments: Replacement Sheets

Annotated Sheets Showing Changes

REMARKS

The Applicants have carefully considered the official action dated March 13, 2009 and the advisory action dated June 12, 2009. In view of the following remarks, the Applicants respectfully traverse the rejections and submit that all claims are in condition for allowance. Favorable reconsideration of this application is respectfully requested.

I. Substitute Specification and Additional Drawings

In response to the Examiner's request in the advisory action, the Applicants submit herewith a substitute specification to amend the specification in light of the incorporation by reference of application no. 10/348,592 made in the written description of the instant application. The substitute specification contains no new matter. The Applicants request entry of the substitute specification pursuant to 37 C.F.R. § 1.125.

In addition, the Applicants submit herewith additional drawing sheets including new figures 5-7, which correspond to figures 1-3 of application no. 10/348,592. New figures 5-7 contain no new matter. The Applicants request entry thereof.

II. The Rejections under 35 USC § 112

In the final action, claims 1-11, 15-23, and 26-32 were rejected under 35 USC § 112, first paragraph, as failing to comply with the written description requirement. In particular, each of independent claims 1, 15, and 26 recites "…provisioning…, without manual intervention…," and the official action suggests that there is no support for a lack of manual intervention.

In the previously filed response to the final action, the Applicants noted that support for "…provisioning…, without manual intervention…" can be found in the subject application as originally filed at least at paragraph 34.

> An illustrative method detailing the provisioning and maintenance of network circuits in a data network is presented in U.S. patent application Ser. No. 10/348,592, entitled "Method And System For Provisioning And Maintaining A Circuit In A Data Network," filed on Jan. 23, 2003, and assigned to the same assignee as this application, which is expressly incorporated herein by reference.

Applicants' Specification, ¶ [0034].

In the advisory action, the Examiner requested the Applicants incorporate the portions of application no. 10/348,592 into the instant application. In response, the Applicants submit herewith a substitute specification and drawings with the incorporated subject matter from application no. 10/348,592 describing provisioning and maintenance of network circuits in a data network.

Accordingly, the Applicants respectfully request withdrawal of the § 112 rejections.

III. The Rejections under 35 USC § 103

In the official action, claims 1-11, 15-23, and 26-32 were rejected under 35 USC § 103 as unpatentable over Sibbitt et al. (US 5,065,392) in view of one or more of Wilkes (US 5,539,817), Hollman et al. (US 7,146,000), Chiu et al. (US 6,597,689), and Naven et al. (US 6,810,043).

A. Independent Claim 1

The Applicants respectfully submit that independent claim 1 is allowable over the combination of Sibbitt et al. and Wilkes. Independent claim 1 is directed to a method that involves, among other things, provisioning at least one logical circuit through a first local access and transport area, a second local access and transport area, and an inter-exchange carrier. Independent claim 1 also recites that the at least one logical circuit includes first variable communication paths to route data through the first local access and transport area, second variable communication paths to route the data through the second local access and transport area, and fixed communication paths to route the data between the first local access

and transport area, the second local access and transport area, and the inter-exchange carrier. One of ordinary skill in the art would not make the suggested combination of Sibbitt et al. and Wilkes to teach or suggest such a method.

As restated in the advisory action of June 12, 2009, Sibbitt et al. do not teach or suggest first and second local access and transport areas (LATAs) interconnected via an inter-exchange carrier (IEC). However, the advisory action relies on Wilkes to show LATAs and an IEC and supports the combination of Sibbitt et al. and Wilkes on the premise that a first LATA of Wilkes can be equated to a customer premises connected to DACS(A) of Sibbit et al., that a second LATA of Wilkes can be equated to a customer premises connected to DACS(B) or DACS(C) of Sibbitt et al., and that an IEC of Wilkes can be equated to another DACS of Sibbitt et al. On the contrary, contentions between Sibbit et al. and Wilkes as discussed below would prevent such a combination.

Wilkes describes that "[i]n each LATA, a central office hub is provided to enable call routing between LATAs." *Wilkes*, 5:39 and 40. For instance, Wilkes describes that "central office 20 is used as a hub site for customer locations in LATA No. 1 and central office 21 is provided as a hub site for customer locations in LATA No. 2." *Id.*, 5:40-43. Thus, the system of Wilkes requires that each LATA be provided with its own central office hub.

Sibbitt et al. describe a network having a single controller 40 that provides communication links to all of the cross-connects (DACS) in the network and that has the routing ability to perform routing from one customer premise location to another. *Sibbitt et al.*, 3:66-4:4. Because a single controller in the Sibbitt et al. network controls all of the DACS and routes between all of the customer premises locations, the suggestion in the advisory action that one of the Sibbitt et al. customer premise locations could be a first LATA of Wilkes and another of the Sibbitt et al. customer premise locations could be a second

LATA of Wilkes would be contrary to common sense in light Wilkes' teaching that each LATA has its own central office hub to manage its routing.

In addition, the Sibbitt et al. controller 40 controls the DACS that the advisory action suggests could be an IEC. Thus, under the suggestion in the advisory action, the controller 40 of Sibbitt et al. would control routing in each LATA as well as routing in the interconnecting IEC. However, such a configuration is contrary to conventional inter-LATA network communications as described by Wilkes and also contrary to government regulation of inter-LATA communications in which consumers must be free to choose inter-LATA carriers (e.g., long-distance carriers) separate from intra-LATA carriers (e.g., local service carriers). *Wilkes*, 2:4-11 ("The customer's ability to select an inter-LATA or toll carrier is made possible by a Regulation called equal access (EA). Equal access is an operating company tariff which provides a given subscriber access that is equal in type and quality to every inter-LATA carrier. Each IED [sic (IEC)] has a dialing arrangement, call-screening technique, routing procedure, billing record, and signaling protocol are [sic (as)] required to implement the EA environment."); *Id.*, 2:22-32 ("Telecommunication services within a LATA, including local and toll calls within a LATA, are carried by Bell operating companies. Inter-LATA traffic must be carried by an inter-LATA carrier (IC). Today, intra-LATA competition is now allowed in the United States. That is, subscribers have the capability of selecting an alternate intra-LATA carrier for intra-LATA calls as well as an inter-LATA carrier for inter-LATA calls. The BOC must transfer inter-LATA traffic to the IC directly from the end office (EO) or via an intermediate switch called an access tandem (AT)."); *Id.*, 5:1-4 ("Although local and toll calls within a LATA can be provided by the same Bell operating company, a remote office located in a separate LATA may have to be served by an inter-exchange carrier.").

In view of the foregoing, the Applicants respectfully submit that one of ordinary skill in the art would not make the suggested combination of Sibbitt et al. and Wilkes. Accordingly, the Applicants respectfully submit that independent claim 1 and all claims dependent thereon are in condition for allowance.

B. Independent Claim 15

The Applicants respectfully submit that independent claim 15 is also allowable over the suggested combination of Sibbitt et al. and Wilkes. Independent claim 15 is directed to a system and recites, among other things, provisioning at least one logical circuit through a first local access and transport area, a second local access and transport area, and an inter-exchange carrier, wherein the at least one logical circuit includes first variable communication paths to route data through the first local access and transport area, second variable communication paths to route the data through the second local access and transport area, and fixed communication paths to route the data between the first local access and transport area, the second local access and transport area, and the inter-exchange carrier. The Applicants respectfully submit that one of ordinary skill in the art would not make the suggested combination of Sibbitt et al. and Wilkes to teach or suggest such a system. Accordingly, the Applicants respectfully submit that independent claim 15 and all claims dependent thereon are in condition for allowance.

C. Independent Claim 26

The Applicants respectfully submit that independent claim 26 is also allowable over the combination of Sibbitt et al. and Wilkes. Independent claim 26 is directed to a method and recites, among other things, provisioning at least one logical circuit through a first local access and transport area, a second local access and transport area, and an inter-exchange carrier, wherein the at least one logical circuit includes first variable communication paths to route data through the first local access and transport area, second variable communication

paths to route the data through the second local access and transport area, and fixed communication paths to route the data between the first local access and transport area, the second local access and transport area, and the inter-exchange carrier. The Applicants respectfully submit that one of ordinary skill in the art would not make the suggested combination of Sibbitt et al. and Wilkes to teach or suggest such a method. Accordingly, the Applicants respectfully submit that independent claim 26 and all claims dependent thereon are in condition for allowance.

IV. Conclusion

In view of the foregoing, the Applicants respectfully submit that this application is in condition for allowance and request an early favorable action on the merits. If there are any remaining matters that the Examiner would like to discuss, the Examiner is invited to contact the undersigned representative at the telephone number set forth below.

In general, the Office action makes various statements regarding the pending claims and the cited references that are now moot in light of the above. Thus, the Applicants will not address such statements at the present time. However, the Applicants expressly reserve the right to challenge such statements in the future should the need arise (e.g., if such statement should become relevant by appearing in a rejection of any current or future claim).

The Commissioner is authorized to charge any deficiency in the submitted payment toward payment of any fee due for the filing of this paper to deposit account number 50-2455.

In addition, if a petition for an extension of time under 37 CFR 1.136(a) is necessary to maintain the pendency of this case and is not otherwise requested in this case, the Applicants request that the Commissioner consider this paper to be a petition for an appropriate extension of time and hereby authorize the Commissioner to charge the fee as set

forth in 37 CFR 1.17(a) corresponding to the needed extension of time to the above deposit account.

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Respectfully submitted,

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Date: August 13, 2009

ANNOTATED SHEET 1/7 ← Updated Sheet Numbering

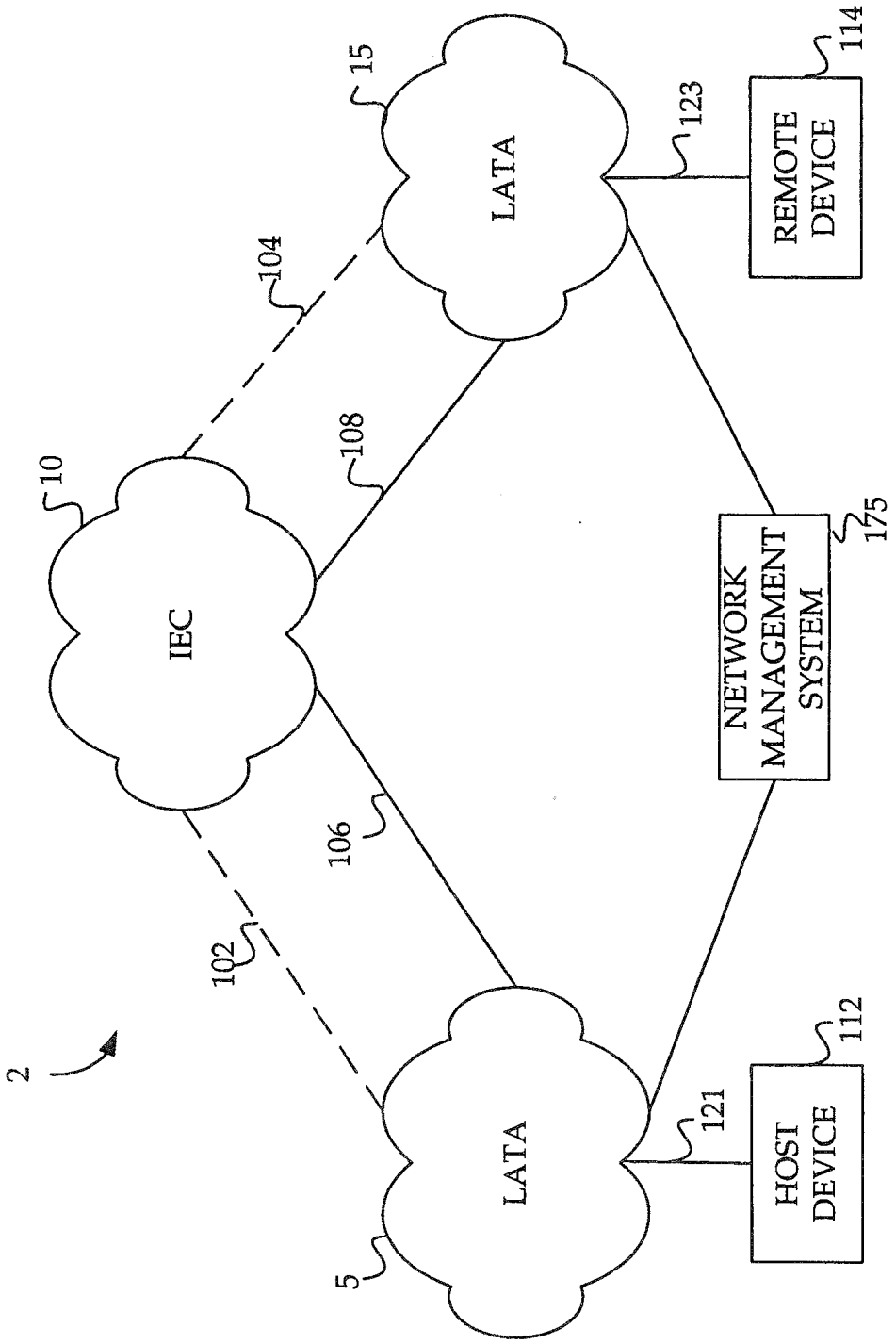

FIG. 1

Title: METHOD AND SYSTEM FOR PROVISIONING LOGICAL CIRCUITS FOR INTERMITTENT USE IN A DATA NETWORK
Inventors: Taylor et al.
Attorney Docket No.: 20103/030294
Hanley, Flight and Zimmerman, LLC

ANNOTATED SHEET 2/7 ← Updated Sheet Numbering

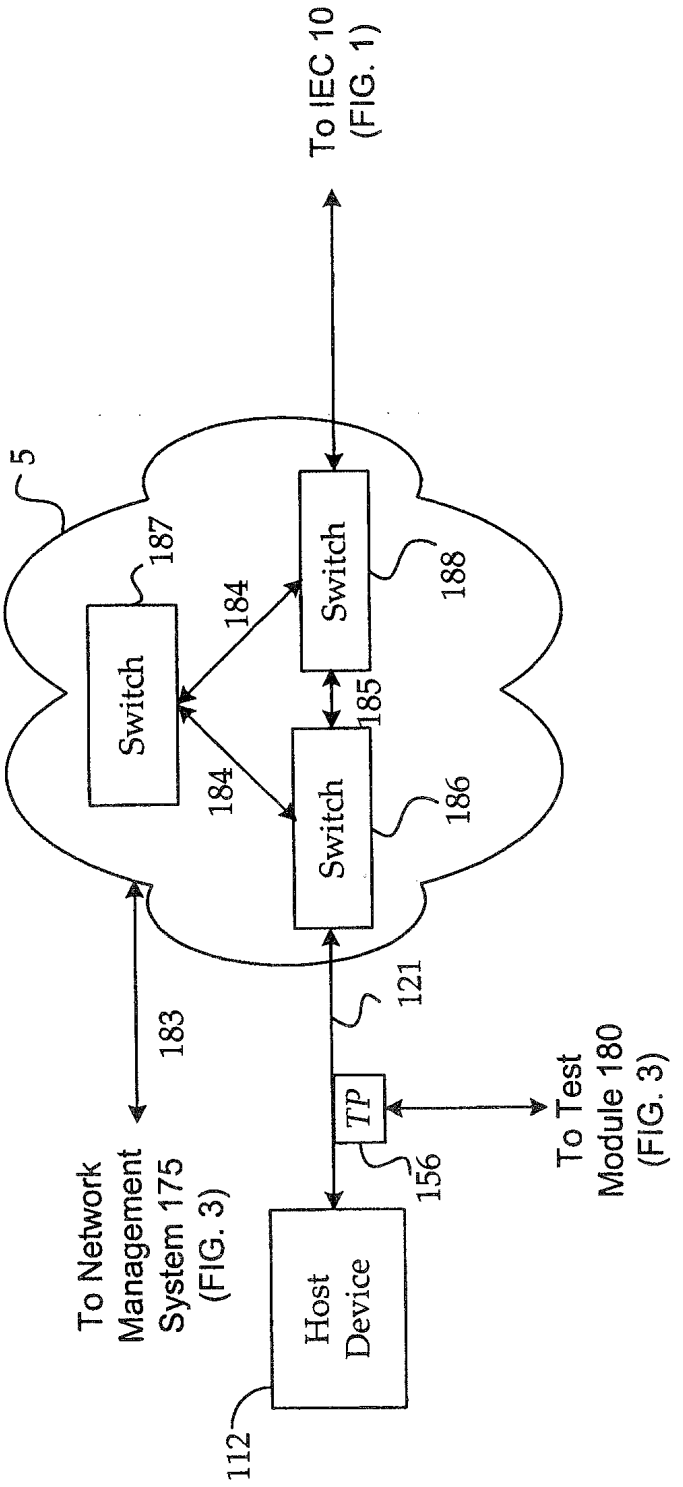

FIG. 2

ANNOTATED SHEET

3/7 ← Updated Sheet Numbering

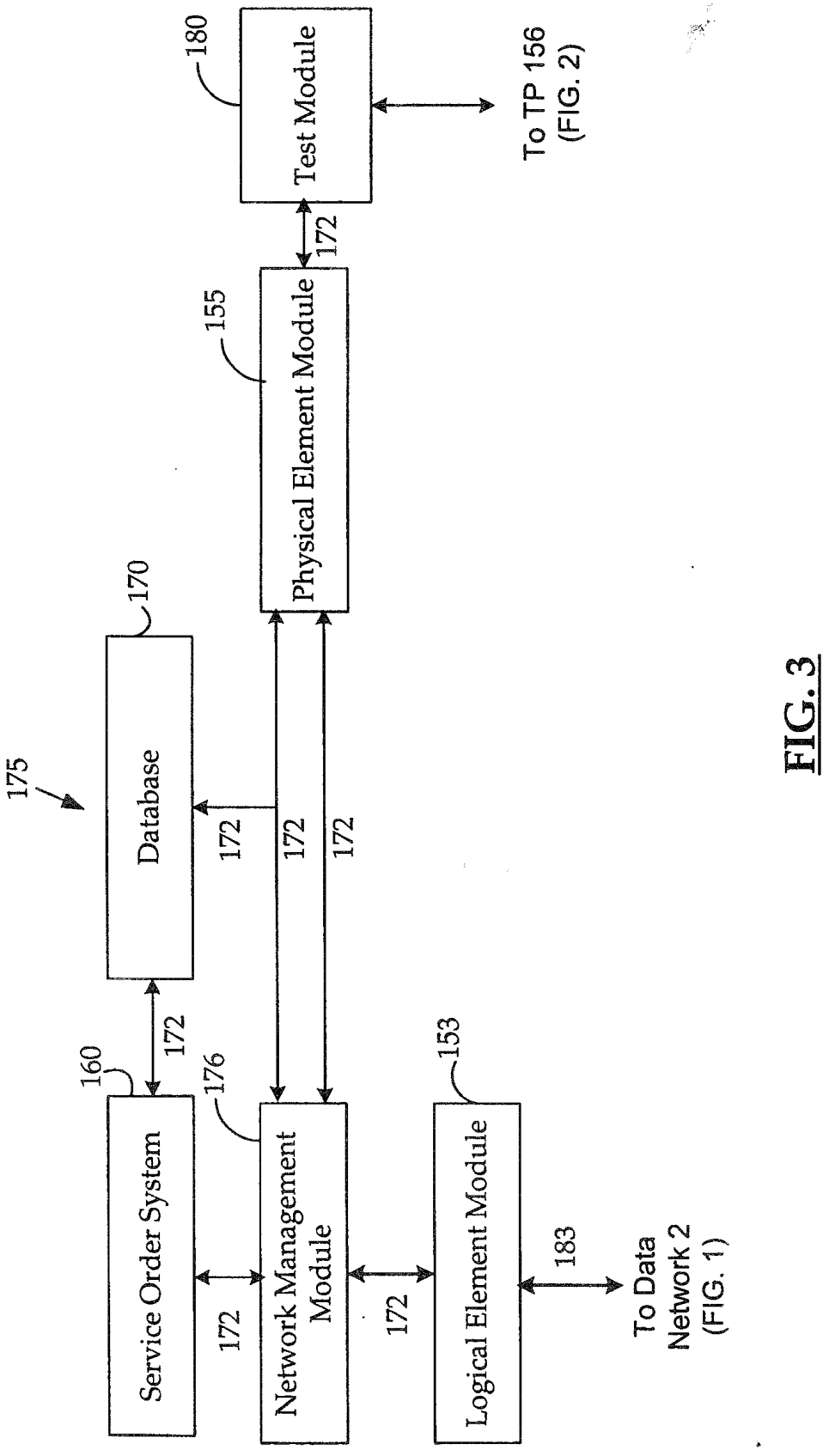

FIG. 3

ANNOTATED SHEET

4/7 ← Updated Sheet Numbering

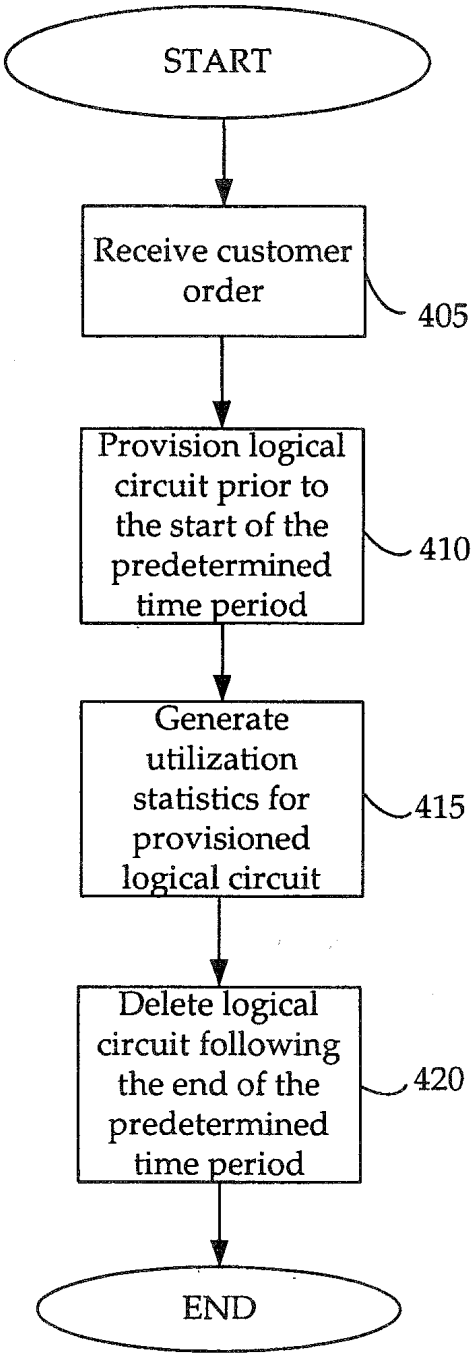

FIG. 4

Entire Figure Expressly Incorporated from Application No. 10/348,592

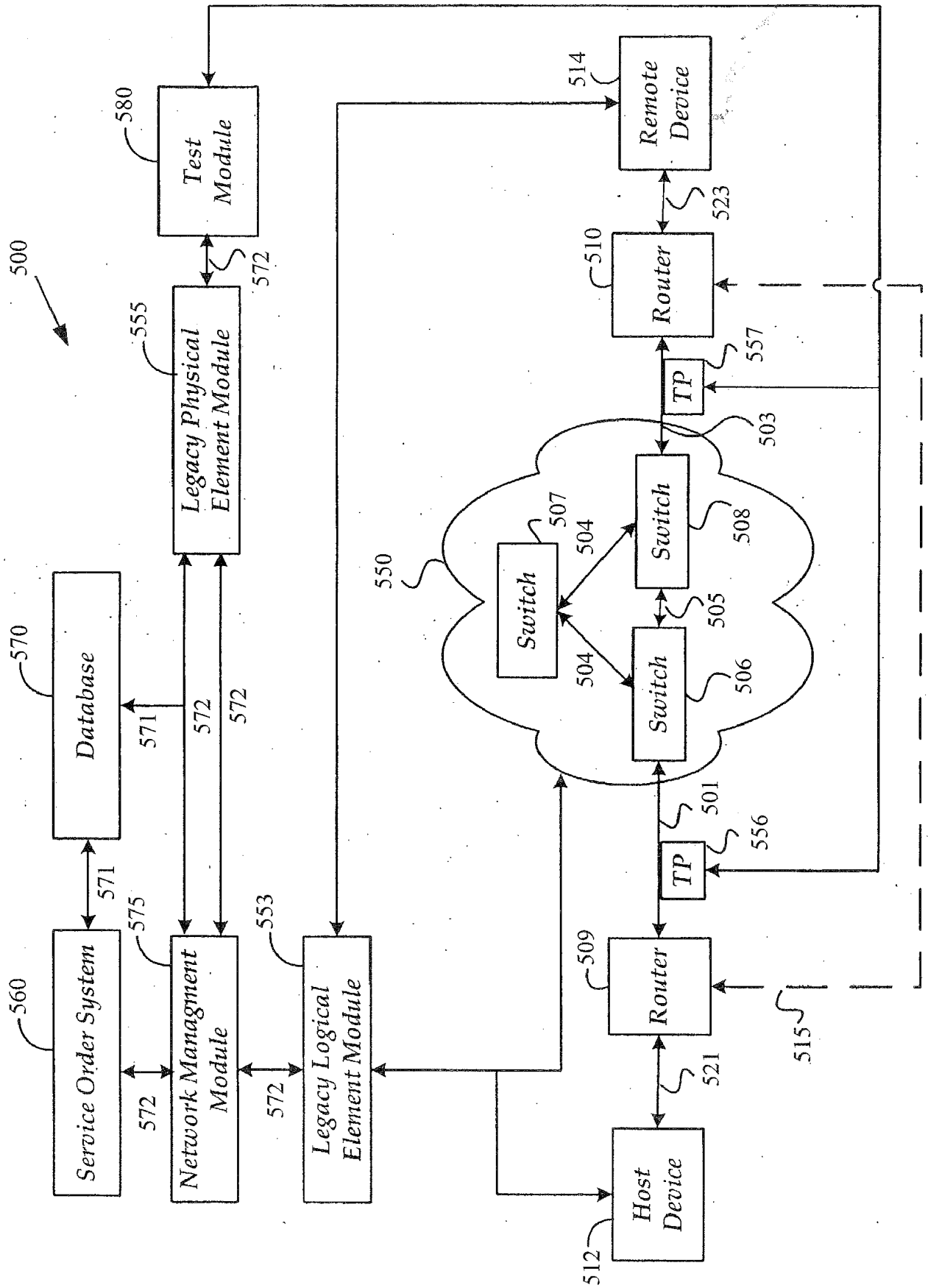

FIG. 5

ANNOTATED SHEET

600

6/7

Entire Figure Expressly Incorporated from Application No. 10/348,592

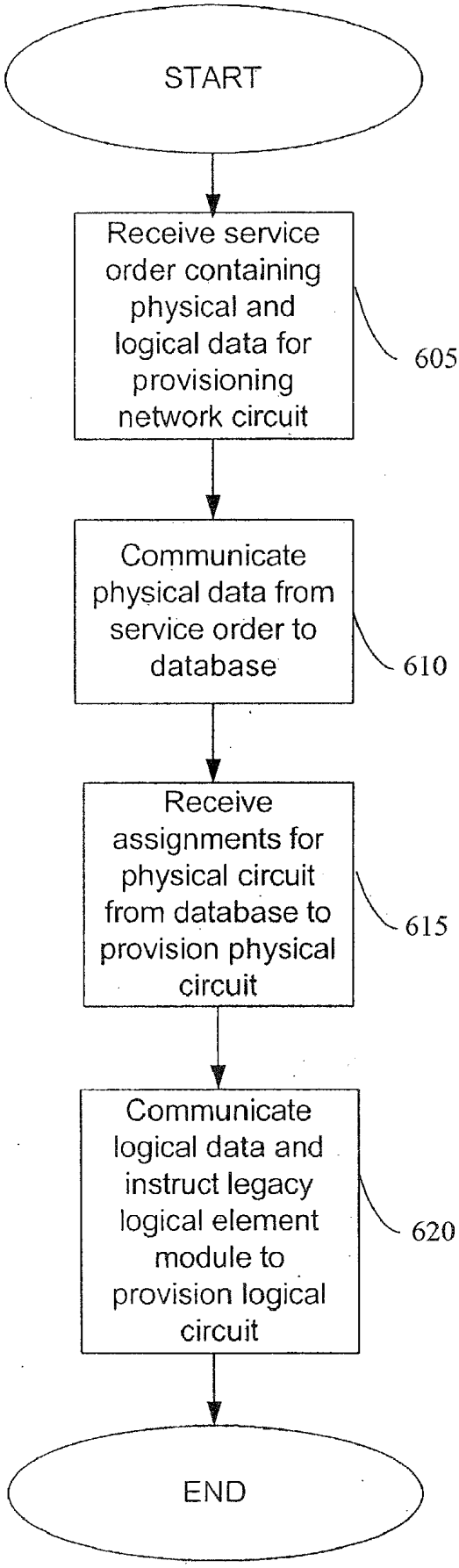

FIG. 6

ANNOTATED SHEET

7/7

Entire Figure Expressly Incorporated from Application No. 10/348,592

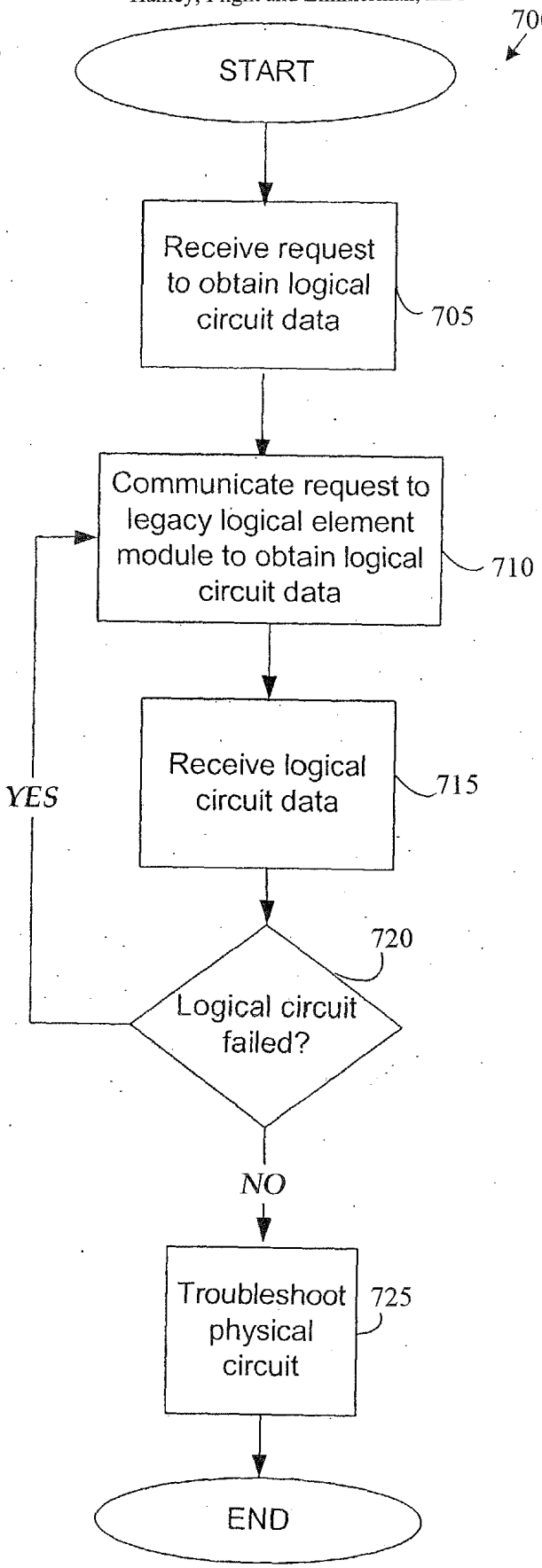

FIG. 7